

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

RONALD KOSZLOWSKI,

Plaintiff,

Case No. 2005-2855-CH

vs.

TATIANA de los ANGELES
FUENTES AGUILAR,

Defendant.

OPINION AND ORDER

Plaintiff filed objections to Bill of Costs as submitted by defendant.

I

In the interests of judicial economy, the factual and procedural statements set forth in the Court's Opinion and Order issued May 30, 2006, are herein incorporated. Briefly, following the granting of defendant's motion for summary disposition, defendant submitted a document entitled "Taxation of Costs". It is this document to which plaintiff objects.

II

Defendant claims the following costs:

- | | |
|-------------|--|
| • \$ 235.00 | Deposition fee on Kozlowski paid to court reporter |
| • 95.00 | Inspection fees paid to Warren Bldg. Dept. |
| • 75.00 | Mediation fee paid to Mediators |
| • 20.00 | Motion fee paid to clerk on 3-29-06 |
| • 20.00 | Motion fee paid to clerk on 5-15-06 |

Total Taxable Costs: \$463.55.



2005-002855-
CH
00019651644
OPNIMGCC

III

In Michigan, for costs to be taxable there must be statutory authority permitting their recovery. *Beach v State Farm Mut Automobile Ins Co*, 216 Mich App 612, 621; 550 NW2d 580 (1996). "The power to tax costs is wholly statutory; costs are not recoverable where there is no statutory authority for awarding them." *Herrera v Levine*, 176 Mich App 350, 357; 439 NW2d 378 (1989). Contrary to defendant's assertion, mediation fees are not recoverable. See *JC Building Corp II v Parkhurst Homes Inc*, 217 Mich App 421, 429; 552 NW2d 466 (1996). The burden of proof to establish eligibility for reimbursement of costs is on the party seeking taxable costs.

MCR 2.625 *et seq* is the appropriate court rule in this instance, which provides that costs are allowed to the prevailing party (defendant in this case), unless prohibited by statute, court rule, or order of the court for reasons stated in writing and filed in the action. MCR 2.625(G)(2) provides that the bill of costs must be verified and must contain a statement that each item of cost claimed is correct and has been necessarily incurred in the action and the services for which fees have been charged were actually performed.

MCL 600.2549 further provides that reasonable and actual fees paid for depositions of witnesses filed in any clerk's office and for the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.

The denial of such requested costs in this case is twofold: First, there is no evidence that any witness deposition was ever filed in the clerk's office, and second, a review of the record shows that a trial did not take place. With very little exception, there was scant reference to any

deposition testimony in the parties' motion and response for summary disposition. To this end, defendant is not entitled to deposition costs.

IV

MCL 600.2529 provides in subsection (2) that the sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

Pursuant to MCL 600.2441(a), defendant's motion fees are allowable. However, defendant has submitted no legal authority under which this Court could grant the inspection fees paid to the Warren Building Department, and the Court is under no obligation to search for the authority. Generally, where a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999)

V

Based on the foregoing, it is hereby

ORDERED plaintiff's objections to defendant's Bill of Costs are GRANTED. Defendant is entitled to \$40.00 as taxable costs, representing motion fees paid on 3-29-06 and 5-15-06.

Pursuant to MCR 2.602(A)(3), this case remains closed.

SO ORDERED.

DATED:

cc: John Harrington
Douglas Womack

Peter J. Maceroni
Circuit Judge

PETER J. MACERONI
CIRCUIT JUDGE

AUG - 9 2006

A TRUE COPY
CARMELLA SABAUGH, COUNTY CLERK

BY: *[Signature]* Court Clerk